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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 10

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

Draft resolution submitted by Mr. Bossuyt, Ms. Chavez, Mr. Chernichenko, Mr. Despouy, Mr. Eide, Ms. Forero Ucros, Mr. Hakim, Mr. Hatano, Mr. Khalil, Ms. Ksentini, Mr. Maxim, Ms. Palley and Mr. Saboia

1992/.. Violation of the human rights of staff members of the United Nations system and other persons acting under the authority of the United Nations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Gravely concerned by the fact that a significant number of staff members of the United Nations system and other persons acting under the authority of the United Nations have been, over the years, detained, unaccounted for or subjected to other violations of their fundamental rights contrary to the Charter of the United Nations and other international instruments,

Recalling the relevant resolutions on this subject, in particular General Assembly resolutions 42/219 of 21 December 1987, 43/225 of 21 December 1988, 44/186 of 19 December 1989 and 45/240 of 21 December 1990, Commission on Human Rights resolutions 1989/28 of 6 March 1989, 1990/31 of 2 March 1990 and 1991/37 of 5 March 1991 and Sub-Commission resolutions 1987/21 of 3 September 1987, 1988/9 of 31 August 1988, 1989/30 of 1 September 1989 and 1990/20 of 30 August 1990,

Recalling further the recommendations of the Administrative Committee on Coordination adopted in 1987,

Deploring the persistence of violations of the fundamental rights of staff members of the United Nations system and other persons acting under the authority of the United Nations and the continuous threats against their security and independence, in spite of these resolutions,

Aware that human rights violations can only have a negative effect on the implementation of the mandates of the organizations of the United Nations, especially at a time when these organizations are being called upon to undertake greater responsibilities in various parts of the world,

Having noted that the health of detained officials has in some cases seriously deteriorated during their detention,

Preoccupied by the inordinate delays in the communication of essential information on the detention of staff members which continues to be imposed with regard to the different organizations of the United Nations system which have the right fully to protect their staff members in the exercise of their functions,

Greatly appreciating the efforts of the Secretary-General to promote a satisfactory resolution of all cases of this kind, and noting with interest Security Council resolution 767 (199..) in which the Council demands that all parties respect the safety and the security of the personnel of the United Nations and of other humanitarian organizations,

1. Urges again Governments and other entities holding de facto territorial power to respect and to ensure respect for the rights of staff members and other persons acting under the authority of the United Nations, as well as of their families;

2. Requests the Secretary-General to continue his efforts and to take every measure to ensure that the human rights and privileges and immunities of the personnel of the United Nations system, including experts, and their families are fully respected, to demand compensation and to monitor the indemnization for the harm caused to personnel and to their organizations, as well as the full reinsertion and re-education of the staff members concerned;

3. Strongly urges Governments and other entities holding de facto territorial power to allow physicians to examine the state of health of the staff members and experts of the United Nations system and of the members of their families who are under detention and to allow these persons to receive the necessary treatment through a physician agreed upon by the United Nations, inasmuch as possible of their own choosing;

4. Also urges Governments and other entities holding de facto territorial power, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly in its resolution 43/173 of 9 December 1988, to provide adequate and prompt information concerning the arrest or detention of United Nations staff members and their families, and to grant the representative of the competent international organization access to them without delay;

5. Calls upon Governments and other entities detaining personnel of the United Nations system to allow the representative of the competent international organization to attend any hearing concerning them and members of their families;

6. Expresses its appreciation to the Special Rapporteur, Mrs. Mary Concepción Bautista, for the work she has carried out aimed at improving on a long-term basis the protection of personnel of the United Nations system and their families, as well as of experts and consultants;

7. Expresses its satisfaction at the recommendations contained in the final report of the Special Rapporteur (E/CN.4/Sub.2/1992/19);

8. Calls upon the Commission on Human Rights to request the existing human rights machinery, including the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on summary or arbitrary executions, to examine the cases involving the human

rights of the staff members of the United Nations system and their families, as well as of experts and consultants, and to transmit the relevant part of their respective reports to the Secretary-General for inclusion in his report to the Commission on Human Rights under item 10 of its agenda;

9. Recommends the following draft resolution to the Commission on Human Rights for adoption:

The Commission on Human Rights,

Taking into account resolution 1992/.. of .. August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the final report of the Special Rapporteur, Mrs. Mary Concepción Bautista, on the protection of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19),

1. Expresses its appreciation to the Special Rapporteur for her final report on the protection of the human rights of United Nations staff members, experts and their families;

2. Requests the Secretary-General to take steps aimed at ensuring the application without delay of all the recommendations contained in the report;

3. Requests the existing human rights machinery, including the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on summary or arbitrary executions, to examine the cases involving the human rights of staff members of the United Nations system and their families, as well as experts and consultants, and to transmit the relevant part of their respective reports to the Secretary-General for inclusion in his report to the Commission on Human Rights under item 10 of its agenda;

4. Requests the Secretary-General to present a report annually to the Third Committee of the General Assembly on the implementation of the protection measures and on redress for the possible harm caused.